

MEMO# 23469

May 20, 2009

FINRA Proposes Rule Revisions To Require Members To Send Customer Account Statements Monthly Instead Of Quarterly

[23469]

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TO: TRANSFER AGENT ADVISORY COMMITTEE No. 35-09
BROKER/DEALER ADVISORY COMMITTEE No. 24-09
COMPLIANCE MEMBERS No. 25-09 RE: FINRA PROPOSES RULE REVISIONS TO REQUIRE MEMBERS TO SEND CUSTOMER ACCOUNT STATEMENTS MONTHLY INSTEAD OF QUARTERLY

FINRA recently filed with the Securities and Exchange Commission a proposal to combine the NASD and NYSE rules governing customer account statements into a new FINRA Rule 2231. Significantly, as discussed below, the revised rule would require each general securities member to send account statements monthly instead of quarterly. FINRA's proposal was not published for comment by FINRA prior to its submission to the SEC and such submission does not explain the basis for revising this requirement.

Comments on FINRA's proposal will be due to the SEC 21 days after its publication in the Federal Register, which we expect to occur in the next week or so. The Institute is planning to submit a comment letter recommending that the proposed revisions not apply to mutual fund underwriters with respect to their mutual fund shareholder accounts. If there are issues you believe the Institute should address in its letter, please provide them to Tami Salmon by phone (202-326-5825) or email (tamara@ici.org) no later than Friday, June 5th.

As proposed by FINRA, existing NASD Rule 2340 and NYSE Rule 409, with some exceptions not relevant for mutual funds, would be combined into new FINRA Rule 2231, which would govern customer account statements and confirmations. As part of this consolidation, the

new rule would revise the frequency with which “each general securities member” must send such statements from “not less than once every calendar quarter” to “not less than once every calendar month” to each customer whose account had account activity (e.g., purchases, sales, transfers) during the period since the last statement was sent to the customer. For those customers with no account activity during the month, but who have a security position or balance in the account, such statements may still be delivered quarterly. Also, a member that does not carry customer accounts and does not hold customer funds or securities would continue to be exempt from the provisions of FINRA Rule 2231. Supplementary Material incorporated from NYSE Rule 409 would be included in the consolidated rule to address: Transmission of Customer Account Statements to Other Persons or Entities (.01); Use of Electronic Media to Satisfy Delivery Obligations (.02); Information to be Disclosed on Statement (.03); Assets Externally Held and Included on Statements Solely as a Service to Customers (.04); Use of Logos, Trademarks, etc. (.05); and Use of Summary Statements (.06). Interestingly, Supplementary Material .03 would require the statements required by the new rule to “clearly and prominently disclose on the front of the statement” the identity of the introducing firm and clearing firm and that the clearing firm is a member of SIPC – information wholly unrelated to mutual fund underwriters.

A copy of FINRA’s submission to the SEC is available on FINRA’s website at:

<http://www.finra.org/web/groups/industry/@ip/@reg/@rulfil/documents/rulefilings/p118533.pdf>.

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